

BIRDIE BOX WTX

GOLF SIMULATOR PARTICIPANT WAIVER AND RELEASE OF LIABILITY

All participants in activities on the golf simulator, must agree to this waiver prior to participating. This Agreement shall remain valid and effective to release and indemnify Birdie Box WTX LLC from any Claims (as hereafter defined).

RELEASE OF LIABILITY AND ASSUMPTION OF RISK

On behalf of myself, my spouse, children, wards, if any, and their respective successors, assigns and in consideration of the services and activities provided by Birdie Box WTX LLC (hereafter collectively the "The Released and Indemnified Parties"), I hereby agree to forever release, remise, discharge, defend, hold harmless and indemnify The Released and Indemnified Parties as set forth in this Agreement:

1. **RELEASE AND INDEMNITY:** For myself and on behalf of my spouse, if any, my children and my wards, if any, and their respective successors and assigns, (hereafter collectively, the "Releasing Parties"), I hereby agree to release, defend, hold harmless, and indemnify, The Released and Indemnified Parties from and against any and all claims, actions, causes of action, proceedings, suits, costs, liabilities, damages, and expenses, whether known or unknown (including but not limited to all direct, special, incidental, exemplary, punitive, and consequential damages, losses of any kind and attorneys' fees), and however caused, including without limitation by, reckless, negligent or grossly negligent conduct (hereafter collectively, "Claims") of any and all of the Releasing Parties that arise on, are based upon or result from, any act, event, occurrence or omission on the golf simulator during the Claim Period. Furthermore, and without limiting the foregoing, on behalf of the Releasing Parties I waive any and all Claims that any of us, whether individually or collectively, may now or in the future have against any of The Released and Indemnified Parties that arise on, are based upon, or result from, any act, event, occurrence or omission on the golf simulator during the Claim Period, and agree not to initiate or prosecute (or aid any other party in prosecuting) or continue to assert or maintain any such Claim of any kind whatsoever against any of The Released and Indemnified Parties in any court or otherwise with respect to the matters released or waived hereunder, including but not limited to any Claim under any common law, whether in law or equity, or federal, provincial or local statute, ordinance or rule of law.

2. **ACKNOWLEDGEMENT OF RISKS:** I acknowledge that by its very nature, golfing (including indoor golf), and related activities (the "Activities"), present, carry and involve a serious risk of physical injury to both active participants and spectators. I acknowledge that the Activities are inherently dangerous and hazardous and acknowledge that by participating in, observing, or allowing minors of whom I have legal custody to participate in or observe the Activities, I am, on behalf of myself and on behalf of each of the Releasing Parties, expressly assuming all risks associated with the Activities and expressly contracting not to sue for any injury sustained as a result of such participation in or observation of the Activities. I understand that golfing and related activities may result in injuries ranging from minor injuries (bruises, blisters, and the like), to more serious injuries or even death. I acknowledge that golfing and related activities on the golf simulator subjects myself and any other participants, including but not limited to the Releasing Parties to the risk of serious bodily injury. I understand that no matter how careful the Releasing Parties may be during golfing and related activities, and that no matter how Birdie Box

WTX LLC employees attempt to reduce the risks, the risk of serious injury (including death) is not eliminated and remains foreseeable.

3. ASSUMPTION OF RISK AND LOSS: I ACKNOWLEDGE THAT ALL ACTIVITIES, BOTH DURING AND AFTER THE CLAIM PERIOD, INCLUDING THE ACTIVITIES OF THE RELEASED AND INDEMNIFIED PARTIES THE ACTIVITIES OF THE RELEASING PARTIES AND THE ACTIVITIES OF THIRD PARTIES ARE POTENTIALLY AND INHERENTLY DANGEROUS AND I KNOWINGLY AND FREELY ASSUME ALL KNOWN AND UNKNOWN RISKS ON BEHALF OF MYSELF AND THE OTHER RELEASING PARTIES, INCLUDING WITHOUT LIMITATION ALL RISKS OF INJURY, DAMAGE AND/OR DEATH. I further agree that none of The Released and Indemnified Parties will be responsible to me or any of the Releasing Parties for the loss or theft of my personal property, or that of any of the Releasing Parties while I am on the golf simulator. My participation and the participation of any of the Releasing Parties to participate in those activities despite the risks. I further expressly agree that I will pay for the cost of medical assistance should any of The Released and Indemnified Parties request such assistance in their sole discretion on behalf of any of the Releasing Parties. I assume full financial responsibility for any damage or injury that may occur to any of the Releasing Parties while utilizing the golf simulator, I fully agree to bear the costs of such any injury or damage to any of the Releasing Parties and their personal property arising. I further expressly assume the risk of injury or aggravation of injury resulting from any preexisting medical or physical condition of any of the Releasing Parties, irrespective of whether such medical or physical condition was known or unknown to me.

4. INJURIES BY AND TO THIRD PARTIES: I further and specifically acknowledge that the Releasing Parties, including myself, my spouse, my child, and my ward, if any, may be injured by the actions of customers or invitees of Birdie Box WTX LLC (hereafter "Third Parties"). In such event, I agree to release, discharge, waive, defend and indemnify The Released and Indemnified Parties against any Claims arising from acts or omissions of Third Parties during the Claim Period.

5. INSURANCE: I certify and represent that I have adequate personal insurance or sufficient personal assets to fully indemnify The Released and Indemnified Parties against any Claims of any of the Releasing Parties against any of The Released and Indemnified Parties for which I have an indemnity obligation under this Agreement. I further certify and represent that I have adequate personal insurance or sufficient personal assets to fully defend, hold harmless and indemnify The Released and Indemnified Parties against any Claims of any third party caused in whole or in part by any act or omission of one or more of the Releasing Parties.

6. REPRESENTATIONS: I represent to The Released and Indemnified Parties that all the Releasing Parties participating in any activity are physically able to participate in all such activities and have no pre-existing physical or medical condition, including without limitation any allergies or exercise--induced conditions, that would endanger such participant while participating on the golf simulator. I further represent and warrant, that all the Releasing Parties will conduct themselves, in a safe and responsible manner so as not to endanger the lives or property of any persons. I further specifically represent that I have the authority to enter this Agreement on behalf of all the Releasing Parties and understand that The Released and Indemnified Parties will rely upon such representation. I further represent and warrant that I have legal and physical custody of all minor children or wards who are Releasing Parties by virtue of my signing this Agreement and have legal authority to sign this agreement on their behalf. I further agree to indemnify and hold the Released Indemnified Parties against any claim made by any third party in which it is alleged that my signing of this Agreement on behalf of any minor child or ward was unauthorized or lacking legal authority.

7. CHOICE OF LAW AND VENUE: This Agreement shall be governed by and construed in accordance with the laws of Texas, without regard to principles of conflicts of law, and venue for disputes under this Agreement shall be exclusively in the court of Midland County in Texas. I further agree that should Birdie Box WTX LLC (or any of the other Released and Indemnified Parties) be required to incur attorney's fees and costs to enforce this Agreement, I will indemnify and hold The Released and Indemnified Parties harmless for all such fees and costs.

8. MODEL RELEASE: I irrevocably grant Birdie Box WTX LLC the right to photograph, videotape, and/or record me and/or my child/ward and to use my or my child's/ward's name, face, likeness, voice and appearance in connection with exhibitions, publicity, advertising, and promotional materials without reservation or limitation.

I HAVE READ THIS RELEASE AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS BY ENTERING THIS FACILITY AND DO SO FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

PARENT OR GUARDIAN LIABILITY WAIVER ON BEHALF OF MINOR: I represent that I am duly qualified as the parent or legal guardian or authorized custodian the above listed persons (hereafter the "Minor") and that I have the authority to execute this Agreement on behalf of the Minor. I further agree to be legally bound by the provisions of this Agreement and to indemnify and hold harmless The Released And Indemnified Parties for any claims that the Minor may now have or may arise in the future during the Claim Period against any of The Released And Indemnified Parties arising. I further agree that if it is determined that I am not the parent or legal guardian or legal custodian of the Minor, or that I did not have the authority to sign the Agreement on behalf of such Minor, I will nevertheless personally defend and indemnify The Released and Indemnified Parties for and from any Claim arising from Minor's participation in activities on the golf simulator.

I HEREBY ACKNOWLEDGE (1) THAT THIS DOCUMENT IS VALID AND MAY BE ENFORCED IN THE SAME MANNER AS A HAND-SIGNED DOCUMENT THAT EXISTS IN PHYSICAL FORM. I ALSO EXPRESSLY ACKNOWLEDGE THE VALIDITY OF THIS DOCUMENT. I FURTHER AGREE THAT I HAVE KNOWINGLY AND EXPLICITLY WAIVED ANY RIGHT TO CLAIM THIS DOCUMENT IS INVALID OR IS UNENFORCEABLE BASED ON THE FACT THAT I HAVE NOT PUT PEN TO PAPER.

Birdie Box WTX LLC Rules and Guidelines. The following procedures are in place to ensure members and guests have a safe, enjoyable experience.

- Golf shoes or running shoes are fine but NO METAL SPIKES.
- Guests and members acknowledge that photography and/or video may be recorded and used for promotional purposes without compensation.
- If you bring your own clubs, please make sure club faces are clean before play.
- NO FOOD OR DRINK INSIDE SIMULATOR at any time!
- Players are responsible for the equipment inside the simulators. No swinging clubs outside of the simulators swing area for safety reasons. Play safe.
- Only one person in hitting area at a time.
- Before you swing any club, check your surroundings (monitor, other players etc.) to ensure no one or obstacle is within your range of swing.
- Be aware of your backswing and always follow through.
- Your shot must be directed forward.

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- Swinging should always take place on hitting area of the mat.
- Practice swings must be done on hitting area of the mat.
- Be alert of where you stand or walk and stay out of someone's range of swing.
- Report any accidents immediately.

Guests are financially responsible for any damage caused by failure to follow the directions of the Rules and Guidelines. Failure to abide by any of the above procedures may result in cancellation of the remainder of your paid simulator time without compensation.

Date

Signature (Participant or Guardian)

Print Name (Participant or Guardian)

Minor Name